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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
YOUNG, JOHN L

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/339,325	Shoham et al.
Examiner	**Art Unit**
John Young	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Apr 28, 2003* .

2a) ☒ This action is **FINAL.** 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-7, 9-13, and 15-22* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-7, 9-13, and 15-22* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

7-9-03

FINAL REJECTION

1. **The request for continued examination (RCE) filed on 11/04/2002 under 37 CFR 1.114 based on parent Application No. 09/339,325 is acceptable and an RCE has been established. A final action on the RCE follows:**

2. **Claims 1-7, 9-13 & 15-22 are pending.**

DRAWINGS

3. This application has been filed with drawings that are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS

CLAIM REJECTIONS — 35 U.S.C. §112 ¶2

4. **Rejections Withdrawn.**

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

5. Independent claims 1, 15 & 22 and dependent claims 2-7 & 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Friedland 6,449,601 (09/10/2002) [US f/d: 12/30/1998] (herein referred to as "Friedland").

As per claim 1, Friedland (the ABSTRACT; **FIG. 10; FIG. 11;** FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 3, ll. 1-43; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. **22**-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows "A universal auction system having a programmable auction server, the programmable auction server comprising: a plurality of auction modules to be configured by a user to deploy the universal auction system, wherein at least one auction module corresponds to at least one function of an auction selected from the group consisting of a bid verifier to determine the eligibility of one of a plurality of traders to the universal auction system based on previous auction history, an information manager to provide information to be released by the universal auction system based on an auction classification, a clearer to implement a clearing calculation based on a discriminating allocation policy, a bid transformer to transform a submitted bid of one of the plurality of traders, and a proxy bidder to automatically submit a bid of a trader."

Friedland lacks an explicit recitation of: "a proxy bidder to automatically submit a bid of a trader. . . ." even though Friedland (col. 21, ll. 1-45) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (col. 21, ll. 1-45) would have been selected in

accordance with "a proxy bidder to automatically submit a bid of a trader. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 2, Friedland shows the system of claim 1.

Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 3, ll. 1-43; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "auction modules wherein at least one auction specification module performs at least one transaction selected from the group consisting of a bid verification transaction selected from the group consisting of a bid verification transaction to determine where the submitted bid qualifies based on **a** bidding rule, an information management transaction to present the submitted bid via a user interface, a clearing transaction to clear the submitted bid, and a bid transformation transaction."

Friedland lacks an explicit recitation of: "a bid verification transaction to determine where the submitted bid qualifies based on **a** bidding rule. . . ." even though Friedland (col. 8, ll. 1-67; col. 9, ll. 1-67; and col. 13, ll. 1-67) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (col. 8, ll. 1-67; col. 9, ll. 1-67; and col. 13, ll. 1-67) would have been selected in accordance with "a bid verification transaction to

determine where the submitted bid qualifies based on **a** bidding rule. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 3, Friedland shows the system of claim 1.

Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; ; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "a set of trading primitives; a script interpreter for interpreting a temporal protocol script representing an auction specification, the script including references to at least a portion of the set of trading primitives; and means for switching an auction specification of one phase with an auction specification of another phase."

Friedland lacks an explicit recitation of: "means for switching an auction specification of one phase with an auction specification of another phase. . . ." even though Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5;

col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) would have been selected in accordance with "means for switching an auction specification of one phase with an auction specification of another phase. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 4, Friedland shows the system of claim 3.

Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "wherein at least one auction module f one phase is replaced with at least one auction module of another phase."

Friedland lacks an explicit recitation of: "wherein at least one auction module of one phase is replaced with at least one auction module of another phase. . . ." even though Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67; col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) would have been selected in accordance with "wherein at least one auction module of one phase is replaced with at least one auction module of another phase. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 5, Friedland shows the system of claim 1.

Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "at least one phase consisting of an interval in which at least one transaction occurs, the transaction is selected from the group **consisting of** submitting a bid, admitting a bid, withdrawing a bid, replacing a bid, and transforming a bid."

Friedland lacks an explicit recitation of: "at least one phase consisting of an interval in which at least one transaction occurs, the transaction is selected from the group

consisting of submitting a bid, admitting a bid, withdrawing a bid, replacing a bid, and transforming a bid. . . ." even though Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) would have been selected in accordance with "at least one phase consisting of an interval in which at least one transaction occurs, the transaction is selected from the group **consisting of** submitting a bid, admitting a bid, withdrawing a bid, replacing a bid, and transforming a bid. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 6, Friedland shows the system of claim 5.

Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) shows elements that suggest: "wherein the phase is terminated by a condition."

Friedland lacks an explicit recitation of: "wherein the phase is terminated by a condition. . . ." even though Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) would have been selected in accordance with "wherein the phase is terminated by a condition. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 7, Friedland shows the system of claim 6.

Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) shows elements that suggest: "wherein the condition is a time period."

Friedland lacks an explicit recitation of: "wherein the condition is a time period. . . ." even though Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col.

2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (col. 20, ll. 17-37; col. 1, ll. 60-67; col. 2, ll. 1-5; col. 2, ll. 43-63; col. 3, ll. 42-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 13, ll. 62-67; and col. 14, ll. 1-43) would have been selected in accordance with "wherein the condition is a time period. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 9, Friedland shows the system of claim 22.

Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "the market specification console further comprising a plurality of rules wherein at least one rule is user-modifiable."

Friedland lacks an explicit recitation of: "the market specification console further comprising a plurality of rules wherein at least one rule is user-modifiable. . . ." even though Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13,

ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) would have been selected in accordance with "the market specification console further comprising a plurality of rules wherein at least one rule is user-modifiable. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 10, Friedland shows the system of claim 9.

Friedland (the ABSTRACT; **FIG. 10; FIG. 11;** FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "wherein rules comprise the **at least one** market protocols."

Friedland lacks an explicit recitation of: "wherein rules comprise the market protocols. . . ." even though Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG.

21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) would have been selected in accordance with "wherein rules comprise the **at least one** market protocols. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claims 11-13, Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest the elements and limitations of claims 11-13.

Friedland lacks an explicit recitation of the elements and limitations of claims 11-13.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claims 11-13 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include "a graphic user interface (GUI). . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

Independent claim 15 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 16-21, Friedland shows the method of claim 15.

Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest the elements and limitations of claims 11-13.

Friedland lacks an explicit recitation of the elements and limitations of claims 16-21.

"Official Notice" is taken that both the concept and the advantages of the elements and limitations of claims 16-21 were well known and expected in the art by one of ordinary skill at the time of the invention. It would have been obvious to include the elements and limitations of claims 16-21 because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

As per claim 22, Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 3, ll. 1-43; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) shows elements that suggest: "A universal auction specification system comprising: a market specification console configured to receive at least one market protocol from a user, the **at least one** market protocols including a trading primitive that the user configures to dictate the behavior of the universal auction system; and a programmable auction server coupled to the market specification console via a network connection, the programmable auction server to receive the **at least one** market protocols defined by the market specification console, the programmable auction server to implement at least one of the trading primitives to deploy and manage the universal auction system."

Friedland lacks an explicit recitation of: "A universal auction specification system comprising: a market specification console configured to receive at least one market protocol from a user, the **at least one** market protocols including a trading primitive that

the user configures to dictate the behavior of the universal auction system; and a programmable auction server coupled to the market specification console via a network connection, the programmable auction server to receive the **at least one** market protocols defined by the market specification console, the programmable auction server to implement at least one of the trading primitives to deploy and manage the universal auction system. . . ." even though Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Friedland (the ABSTRACT; FIG. 18; FIG. 19; FIG. 20; FIG. 21; FIG. 22; col. 1, ll. 4-10; col. 1, ll. 60-67; col. 2, ll. 1-67; col. 3, ll. 1-67; col. 6, ll. 3-15; col. 7, ll. 20-60; col. 8, ll. 1-67; col. 9, ll. 1-67; col. 10, ll. 1-67; col. 11, ll. 37-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 36-67; col. 16, ll. 1-67, col. 17, ll. 1-67; col. 20, ll. 1-67; and col. 21, ll. 1-45) would have been selected in accordance with "A universal auction specification system comprising: a market specification console configured to receive at least one market protocol from a user, the **at least one** market protocols including a trading primitive that the user configures to dictate the behavior of the universal auction system; and a programmable auction server coupled to the market specification console via a network connection, the programmable auction

server to receive the **at least one** market protocols defined by the market specification console, the programmable auction server to implement at least one of the trading primitives to deploy and manage the universal auction system. . . ." because such selection would have provided means of *"distribution of realtime, live auctions. . . ."* (See Friedland col. 2, ll. 65-67).

RESPONSE TO ARGUMENTS

6. Applicant's arguments (Amendment E, paper#22, filed 04/28/2003) have been fully considered but they are not persuasive for the following reasons:

Applicant's argument (Amendment E, paper#22, p. 8, ll. 12-23) asserts that "Applicants do not admit that the Friedland reference is prior art. The present application is a continuation-in-part of application serial number 09/131,048, now issued patent number 6,285,989 . . . filed August 7, 1998. The effective filing date of the present application is August 7, 1998, which predates the filing of the Friedland reference. . . . [and] Applicants believe the present invention is distinguishable over the Friedland reference." This is not the case.

A review of Applicant's patent US 6,285,989 revels for example that at least Applicant's "bid transformer" element as recited in claim 1, line 12 of the instant application is not disclosed or recited anywhere in Applicant's patent US 6,285,989; therefore, Friedland (col. 15, ll. 22-35) which recites "the remote identifier that submitted the bid that generated the bid message. . . ." and which is interpreted by the Examiner as

showing a "bid transformer. . . ." is prior art concerning the "bid transformer" element in the instant application by virtue of the fact that the parent application 09/131,048, now issued patent number 6,285,989 does not disclose a "bid transformer."

Applicant's argument (Amendment E, paper#22, p. 9, and p. 10, ll. 1-6) as per claim 1, asserts that Friedland does not show "a user configuring the auction modules 'to deploy the universal auction system. . . ." This not the case. For example, Friedland (the ABSTRACT; and col. 3, ll. 2-9) recites: *"A method for distributing a live auction over the Internet to remote bidders."* In this case, the Examiner interprets this disclosure as showing "a plurality of auction modules to be configured by a user to deploy the universal auction system. . . ."

Applicant's argument (Amendment E, paper#22, p. 10, ll. 7-16) as per claim 15, asserts that "The Friedland reference does not teach a method of ***"receiving at least one market protocol,"*** nor ***"generating a plurality of auction modules in a programmable auction server based on the market protocol received."*** This is not the case. For example, Friedland (FIG. 10; FIG. 11; col. 14, ll. 43-57; the ABSTRACT; and col. 3, ll. 2-9) shows ***"receiving at least one market protocol,"*** and ***"generating a plurality of auction modules in a programmable auction server based on the market protocol received."***

In response to Applicant's argument (Amendment E, paper#22, p. 10, ll. 17-23) as per claim 15, which asserts that "For example, a user may have configured a market protocol that generates an auction module to transform a bid based on a predetermined set of discriminating allocation market protocols, such as, to transform the submitted bid of a specific trading identity (e.g., Trader A) by 10% when the bid is received during an auction. . . .", it is noted that the features upon which applicant relies (i.e., "such as, to transform the submitted bid of a specific trading identity (e.g., Trader A) by 10% when the bid is received during an auction. . . .") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's argument (Amendment E, paper#22, p. 11, ll. 9-24; and p. 12, ll. 1-2) as per claim 22, asserts that "The Friedland reference does not teach, suggest, or provide any motivation that one or more trading primitives of a market protocol are configurable by a user at the market specification console 'to dictate the behavior of the universal auction system.'" This is not the case.

It is well settled in the law that "obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See

In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

It is also well settled in the law that "'The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.' *In re Kotzab,* 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir 2000). See also *In re Fine,* 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1998); *In re Jones,* 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)." (See MPEP 2134.01).

It is further well settled in the law that "'There are three possible sources for motivation . . . the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.' *In re Ruffet,* 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998). . . ." (See MPEP 2143.01).

In this case, and throughout the prior Office Action, the obviousness rejections of the instant application are established by modifying the teachings found in the prior art to produce the claimed invention and combining the suggestions derived from the modified teachings of the prior art with the motivation generally available to one of ordinary skill in the art.

In response to Applicant's argument (Amendment E, paper#22, p. 12, ll. 1-8) as per claim 22, which asserts that "The system, as claimed allows a user (e.g., market designer) to build a customized auction system without engaging in lengthy software

development. . . .", it is noted that the features upon which applicant relies (i.e., "as claimed allows a user (e.g., market designer) to build a customized auction system without engaging in lengthy software development. . . .") are not explicitly recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's arguments (Amendment E, paper#22, p. 12, ll. 9-10) which assert that "Claims 2-7, 9-13 and 16-21 are dependent directly or indirectly on one of the independent claims. . . ." and are therefore allowable, it is noted that such arguments amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's response is silent as to the Official Notice evidence presented in the prior Office Action obviousness rejections of claims 11-13 & 16-21. Applicant's response fails to seasonably challenge Official Notice evidence presented in said Prior Office Action.

It is well settled that "Applicant must seasonably challenge well known statements and statements based on personal knowledge when they are made. . . . A challenge to the taking of judicial notice must contain adequate information or argument to create on its

face a reasonable doubt regarding the circumstances justifying the judicial notice. . . . If [A]pplicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, [A]pplicant is charged with rebutting the well known statement in the next reply after the Office action in which the well known statement was made " (See MPEP 2144.03 Reliance on Common Knowledge in the Art or 'Well Known' Prior Art 8 ed., August 2001, pp. 2100-129 and 2100-130).

In this instance, Applicant's Response fails to demand a reference in support of the Official Notice evidence cited by the Examiner in the prior Office action concerning the obviousness rejections of the claims which were rejected based on Official Notice. And, Applicant's response lacks adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the Official Notice and thereby fails to seasonably challenge the Official Notice rejections of the instant invention; therefore, said Official Notice evidence is deemed admitted.

THIS ACTION IS MADE FINAL.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See

MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CONCLUSION

7. Any response to this action should be mailed to:

Box AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

John L. Young
Patent Examiner

July 9, 2003